

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE: TRANSDATA, INC. SMART)
METERS PATENT LITIGATION,) Case Number 12-ml-2309-C

MEMORANDUM OPINION AND ORDER

Defendants have filed a motion requesting the Court to preclude TransData's invalidity expert, Richard A. Kramer, from offering testimony (Dkt. No. 512). Defendants argue that Mr. Kramer's proffered testimony exceeds the scope of his expertise, and that he opines on credibility of fact witnesses and provides certain legal conclusions.

It is unnecessary to resolve the substance of Defendants' arguments. Defendants' challenge to Mr. Kramer's report focuses on the testimony he offers surrounding the ABB/CellNet meter. By separate Order the Court has ruled the ABB/CellNet meter was not prior art and granted judgment to Plaintiff on Defendants' attempt to rely on the device to prove invalidity. In reaching that ruling, the Court did not depend on Mr. Kramer's testimony or his opinions regarding the credibility of witnesses. Rather, the Court reviewed the underlying evidence and reached its own conclusions regarding the credibility of the witnesses within the parameters permitted by law. Because evidence regarding the ABB/CellNet or Innovatec meters will not be offered at trial, any testimony offered by Mr. Kramer on those subjects would lack relevance. Thus, he would not be permitted to testify for those reasons.

Because the Court has previously excluded evidence related to the ABB/CellNet or Innovatec meters, Defendants' Motion to Exclude Opinion Testimony of Plaintiff's Expert Richard A. Kramer (Dkt. No. 512) is GRANTED.

IT IS SO ORDERED this 28th day of August, 2015.



ROBIN J. CAUTHRON

United States District Judge